

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

In the Matter of the Amendment
of the
Rules Governing Court Reporting in the State of Hawai'i

ORDER AMENDING RULES GOVERNING COURT
REPORTING IN THE STATE OF HAWAI'I

(By: Moon, C.J., Levinson, Nakayama, Acoba, JJ, and
Intermediate Court of Appeals, Chief Judge Burns,
assigned by reason of vacancy)

IT IS HEREBY ORDERED that the Rules Governing Court
Reporting in the State of Hawai'i are amended, effective
July 1, 2003, as set out herein (deleted material is bracketed,
new material is underlined):

1. Rule 1 is amended as follows:

Rule 1. SCOPE OF RULES.

The examination, certification and regulation of
the practice of court reporting are matters
[which] that are integrally related to the
effective, impartial and prompt operation of the
judicial system of the State of Hawai'i. The
examination, certification and supervision of the
conduct and proficiency of court reporters is
hereby made subject to regulation by rule of the
supreme court. Nothing in these rules shall be
construed to limit the contempt powers of the
courts of this state.

2. Rule 2 is amended as follows:

Rule 2. CERTIFICATION OF COURT REPORTERS.

(a) No person shall engage in the verbatim
reporting of trials or judicial proceedings in any
of the courts of the State of Hawai'i, nor shall
any person engage in the taking of oral
depositions, for use in the courts of this state,

unless such person shall possess a certificate as a Hawai'i certified shorthand reporter issued by the supreme court through the Hawai'i Board of Certified Shorthand Reporters.

(b) Unless specifically exempted by order of the supreme court, no verbatim transcripts or recording of any trial or judicial proceeding in any of the courts of the State of Hawai'i, nor any transcripts or recordings of any oral depositions taken in Hawai'i, for use in the courts of this state, shall be accepted for filing unless signed and certified by a Hawai'i certified shorthand reporter.

(c) Unless specifically exempted by order of the supreme court, no transcripts of depositions upon written interrogatories shall be accepted for filing unless signed and certified by a Hawai'i certified shorthand reporter certifying that same were taken under his or her direction and control.

(d) Unless specifically exempted by order of the supreme court [or by the Temporary Rules for Appeals Where Experimental Use is Made of Videotape Equipment to Record Trial Court Proceedings], no videotape depositions shall be accepted for filing unless accompanied by a written transcript of the proceedings prepared [by, and], signed, and certified by, a Hawai'i certified shorthand reporter.

(e) The form of certification required shall be established by the Hawai'i Board of Certified Shorthand Reporters. This rule shall not apply to depositions taken and transcribed outside of the State of Hawai'i.

(f) Any person to whom a certificate is issued shall use the title "Certified Shorthand Reporter" or the abbreviation [therefor, "C.S.R." "CSR" with [their] the reporter's identification number upon the certification of any transcript. [The use of such title or abbreviation and number by a person who does not hold such a certificate in the State of Hawai'i shall be regarded as contempt of court and may be punished accordingly.] Violation of this rule shall be subject to such sanctions as the court deems appropriate.

3. Rule 3 is amended as follows:

Rule 3. BOARD OF CERTIFIED SHORTHAND REPORTERS.

In order to supervise the examination, certification, and conduct of court reporters engaged in reporting matters before the courts of this state or for use therein, the Hawai'i Board of Certified Shorthand Reporters is hereby created. The board shall be composed of six persons, at least one of whom shall be from an island other than O'ahu, appointed as follows:

(a) one member appointed by the Executive Board of the Hawai'i State Bar Association who is a licensed attorney in good standing in this state;

(b) one member appointed by the Hawai'i Supreme Court who is a member of the administrative director's staff of the state court system;

(c) two members appointed by the Hawai'i Supreme Court who are Hawai'i certified shorthand reporters from the official sector; and

(d) two members appointed by the Hawai'i Supreme Court who are Hawai'i certified shorthand reporters from the freelance sector.

4. Rule 4 is amended as follows:

Rule 4. TERMS OF BOARD MEMBERS; [INITIAL APPOINTMENTS.] NOTIFICATION OF VACANCY.

[The members of the board shall hold office for staggered terms of three years, except that the members of the board first selected shall serve the following terms:

(a) the member appointed by the Hawai'i State Bar Association shall hold office for three years;

(b) the member of the administrative director's staff of the state courts appointed by the Hawai'i Supreme Court shall hold office for two years;

(c) the Hawai'i certified shorthand reporters appointed by the Hawai'i Supreme Court from the official sector shall hold office for one and two years respectively, as designated by the Hawai'i Supreme Court; and

(d) the Hawai'i certified shorthand reporters appointed by the Hawai'i Supreme Court from the freelance sector shall hold office for one and two years respectively, as designated by the Hawai'i Supreme Court.

Following the expiration of the initial terms of office of any of the board members, all subsequent appointees shall hold office for

three-year terms. Vacancies occurring in the board shall be filled in the same manner as other appointments to the board. An appointee to fill a vacancy shall serve during the unexpired portion of the term of the member replaced.]

The members of the board shall hold office for staggered terms of three years. Vacancies occurring in the board shall be filled in the same manner as other appointments to the board. An appointee to fill a vacancy shall serve during the unexpired portion of the term of the member replaced. The board shall notify the supreme court when a vacancy occurs.

5. Rule 5 is amended as follows:

Rule 5. OFFICERS OF THE BOARD; QUORUM.

[The board shall elect one of its members as president and one member as secretary-treasurer.]

The board shall elect a:

- (1) Chair;
- (2) Vice chair;
- (3) Secretary, and
- (4) Treasurer.

A majority of the board shall constitute a quorum.

6. Rule 6 is amended as follows:

Rule 6. COMPENSATION.

[Members of the Hawai'i Board of Certified Shorthand Reporters shall be paid such amount as shall be approved by the board not in excess of \$10 per day for each day on which work is done by them in connection with authorized activities of the board, and any member while engaged in performing official duties away from the island on which the reporter resides shall be paid \$10 per day and reimbursed for the actual expenses incurred by the reporter in the performance of such duties.]

Members of the board shall be paid \$10 per day per meeting and shall be reimbursed for the actual expenses incurred by the board member in the performance of such duties. "Meeting" shall include committee meetings approved by the board, meetings between off-island members and the board secretary for board purposes, and appointments with Supreme Court Justices and staff.

7. Rule 7 is amended as follows:

Rule 7. RECORDS OF THE BOARD.

The board shall keep a record of its meetings and all official action taken by the board[.]and shall maintain such record for at least seven years. In addition, the board shall maintain a register of all applicants for certification. The records of the meetings of the board, of official action taken by the board, and the register of the applicants for certification shall be maintained at the [administrative office of the courts or at such other location as designated by the board by rule or regulation.] board office.

8. Rule 8 is amended as follows:

Rule 8. DUTIES OF THE BOARD.

(a) Rulemaking. The Hawai'i Board of Certified Shorthand Reporters shall have the authority to propose for consideration by the supreme court reasonable rules and regulations governing the practice of court reporting within the State of Hawai'i, including rules and regulations for (i) testing, [licensing] certification, and supervision of certified shorthand reporters, (ii) [standards] governing the conduct of Hawai'i certified shorthand reporters, and (iii) discipline, censure, suspension, or revocation of certification.

(b) Testing. The board shall prepare and administer appropriate examinations for all applicants for certification as [a] Hawai'i certified shorthand reporters to insure that the applicants have reasonable proficiency in making verbatim records of judicial or related proceedings.

(c) Collection and Use of Fees. [The board shall collect from every licensee the appropriate certification fee required under Rule 10(b)(5). The board shall prepare an annual budget for the expenditure of those funds; shall develop appropriate financial policies for the management of such funds; shall have exclusive control and responsibility over all financial transactions involving such funds; and shall develop and maintain accounting records showing receipt and disposition of such funds, which records shall be subject to audit.]

The board shall: (i) collect from every

applicant or reporter the appropriate application and renewal fees required under Rules 13(a) and 13(c); (ii) produce an annual budget for the expenditure of those funds; (iii) develop appropriate financial policies for the management of such funds; (iv) maintain exclusive control and responsibility over all financial transactions involving such funds; and (v) develop and maintain accounting records showing receipt and disposition of such funds, which records shall be subject to audit. The board may expend funds to carry out its duties under these rules, to pay for expenses authorized by these rules, and to pay for seminars for board members that are related to the duties of board members and approved by a justice of the supreme court.

(d) Discipline. The board shall make appropriate findings and recommendations to the Hawai'i Supreme Court for discipline, censure, suspension, or revocation of certification of Hawai'i certified shorthand reporters. Board hearings shall be held in accordance with [rules and regulations appended to these rules as Exhibit B.] Rule 10.

(e) Notice. The board shall notify a Hawai'i certified shorthand reporter in writing of the expiration date of certification at least sixty (60) days prior to that expiration date. Correspondence shall be mailed to the last known mailing address of the certified shorthand reporter. Failure to receive notice does not exempt the reporter from the requirement to renew certification by the appropriate date.

9. Rule 9 is amended as follows:

**Rule 9. [FINAL DECISIONS OF THE BOARD;
APPEALS FROM DECISIONS OF THE BOARD.]
CERTIFICATION PROCEDURES.**

[(a)] All decisions of the board denying any application for certification shall be made in writing, and the reasons for denying the application for certification shall be included in the decision of the board and filed with the court administrator's office. The decision shall be attested by an officer of the board. A copy of the board's decision, together with the reasons for its decision, shall be mailed to the applicant at his or her last known address by certified and/or registered mail by the board or the court

administrator's office. An appeal from any decision of the board with respect to the denial of certification may be taken by filing a notice of appeal with the supreme court within thirty (30) days after the date of mailing of the decision of the board by certified and/or registered mail to the applicant's last known address. On appeal, the supreme court shall reverse only upon finding that the decision of the board was arbitrary or capricious. The decision of the supreme court shall, for the purpose of certification, be final.

(b) Proceedings for discipline, censure, suspension or revocation of the certification of certified shorthand reporters shall be initiated, prosecuted, and resolved as provided in the Disciplinary Rules appended as Exhibit A to these Rules Governing Court Reporting in the State of Hawai'i. The board shall state to the Hawai'i Supreme Court, in making its recommendation, all reasons in support of its recommendation. A decision or recommendation of the board with respect to the discipline, censure, suspension or revocation of certification shall not have final authoritative effect and shall merely be advisory in nature until such time as the supreme court has approved or modified the discipline, censure, suspension or revocation of certification recommended by the board and has entered an appropriate order. Nothing in this rule shall in any way restrict the Hawai'i Supreme Court from taking any action necessary to enforce these rules or any regulations of the board.]

9.1 Application for certification; renewal of certification; reciprocity; change of address.

(a) Form. The form of application for certification shall be as shown by Form 1. No other form of application shall be accepted by the board.

(b) Qualifications. Prior to the issuance of a certificate as a Hawai'i reporter, an applicant must meet the following minimum qualifications:

(1) Be of good moral character;

(2) Possess a certificate or diploma evidencing graduation from high school, GED certificate or equivalent;

(3) Demonstrate reasonable proficiency in making verbatim records of judicial or related proceedings. For the purpose of this rule, the applicant's demonstration of reasonable

proficiency shall be determined by either (i) the applicant's ability to pass an examination for certification given by the board or (ii) proof the reporter earned the designation "Tested RPR" from the National Court Reporters' Association.

(4) Be in compliance with these Rules Governing Court Reporting in the State of Hawai'i; and

(5) Pay the appropriate application fee established by the board.

(c) Certificate and Number. Once the applicant has met and satisfied the above qualifications, the board shall issue the applicant a certificate as a Hawai'i reporter and an identifying number.

(d) Restriction. No examinee for certification shall be allowed to use or utilize any auxiliary or secondary sound-recording device during any examination. This provision does not prohibit the use of hearing aides or similar technology designed to amplify sound as a necessary accommodation as long as the device does not record.

(e) Renewal. All persons holding a certificate as a Hawai'i certified shorthand reporter shall be responsible for applying for a renewal of that certificate and submitting the application on forms approved by the board to the board office prior to the expiration date of the certificate if that person desires to continue to engage in court reporting within the State of Hawai'i. Upon receipt of the appropriate application, together with the renewal fee, the board shall issue a new certificate or other appropriate document evidencing that the applicant is certified as a Hawai'i certified shorthand reporter for an additional term of one year (unless the applicant is found by the board to be or to have been in violation of these rules, or in violation of any rules or regulations of the board). Any denial of renewal of certification shall be made in accordance with Rule 10.1.

(f) Maintenance. Maintenance of certification shall be dependent upon the reporter meeting continuing education requirements as set forth by the board in Rule 9.2.

(g) Change of address. Each reporter shall notify the board of any change of address within 30 days of the change.

9.2. Maintenance of certification status;

continuing education requirements.

All Hawai'i reporters shall have three years in which to acquire three Continuing Education Units (CEUs) as approved by the National Court Reporters Association. It shall be the responsibility of the certified shorthand reporter to submit substantiating documentation.

Those who initially pass the certified shorthand reporter examination in May have three years from the following June 30 to acquire the required three CEUs. Those who initially pass their certified shorthand reporter examination in November also have three years from the following June 30 to meet the requirements. A reporter may elect to have the three-year time period for obtaining credits to coincide with that of their RPR status as determined by National Court Reporters' Association. Credits earned in excess of the required credits cannot be applied to subsequent years. The reporter shall submit proof that continuing education requirements have been met. If proof is not submitted at least 30 days before the date the certificate expires, the board shall not renew the certificate until the reporter has successfully completed the Certified Shorthand Reporter's Examination.

10. Rule 10 is amended as follows:

Rule 10. [APPLICATION FOR CERTIFICATION; RENEWAL OF CERTIFICATION; RECIPROCITY.] FINDINGS AND RECOMMENDATIONS OF THE BOARD; DISCIPLINARY PROCEEDINGS; APPEALS.

[(a) An applicant seeking certification as a certified shorthand reporter shall apply on forms approved by the board and obtainable from the court administrator's office.

(b) An applicant applying for reciprocity from another jurisdiction must possess the designation of "Tested RPR" and comply with all other rules governing court reporting in the State of Hawai'i.

(c) Prior to the issuance of a certificate as a Hawai'i certified shorthand reporter, an applicant must meet the following minimum qualifications:

(1) be of good moral character;

(2) possess a certificate or diploma evidencing graduation from high school, GED certificate, or equivalent;

(3) demonstrate reasonable proficiency in making verbatim records of judicial or related proceedings in accordance with HRS 606-12. For the purpose of this rule, the applicant's demonstration of "reasonable proficiency" shall be determined by the applicant's ability to pass an examination for certification given by the board, any member of the board or any person or entity designated by the board with the authority to give such examination;

(4) be in compliance with these Rules Governing Court Reporting in the State of Hawai'i and the rules and regulations adopted by the board and attached hereto as Exhibit B; and

(5) pay the appropriate certification fee established by the board.

Once the applicant has met and satisfied the above qualifications, the board shall issue the applicant a certificate as a Hawai'i certified shorthand reporter and an identifying number. The certificate shall be valid until December 31 of the year of its issuance.

(d) All persons holding a certificate as a Hawai'i certified shorthand reporter shall be responsible for applying for a renewal of that certificate, and submit the application, on forms approved by the board, upon written notification of expiration date, to the court administrator's office, prior to the expiration date of the certificate if that person desires to continue to engage in court reporting within the State of Hawai'i. Upon receipt of the appropriate application, together with the appropriate annual certification fee established by the board, the board shall issue the applicant a new certificate or other appropriate document evidencing that the applicant is licensed as a Hawai'i certified shorthand reporter for an additional term of one year (unless the applicant is found by the board to be, or to have been, in violation of these rules, or in violation of any rules or regulations of the board). Any denial of renewal of certification shall be made in accordance with Rule 9(a).

(e) Maintenance of license shall be dependent upon the applicant's meeting continuing education requirements as set forth by the board.

(f) All persons holding a certificate as a Hawai'i certified shorthand reporter shall be responsible for informing the board of any change

of address.]

10.1 Certification Decisions.

(a) Writing Required. Board findings and recommendations to deny any certification shall be in writing and the reasons for denying the application shall be included in the decision. Such decision shall be filed with the Supreme Court Clerk's office. The finding and recommendation shall be attested by an officer of the board.

(b) Notice to Applicant. A copy of the board's decision, together with the reasons for the decision, shall be sent to the applicant by certified mail to the applicant's last known address by the board secretary within (7) days after the decision is filed with the Supreme Court Clerk's Office.

(c) Appeal from Denial of Certification. Appeal from a board decision denying certification may be taken by filing a notice of appeal with the board and/or the Supreme Court. The notice of appeal shall be filed not later than thirty (30) days after the findings and decision are filed with the supreme court.

10.2 Penalties for Violation of Rules; Other Grounds for Discipline, Censure, Suspension or Revocation of Certification.

(a) Any violation of these rules, or any violation of rules and regulations promulgated by the board, shall be cause for refusal of the board to issue or renew certification to any applicant. Any willful violation of these rules, or of any rules or regulations promulgated by the board, shall be grounds for the discipline.

(b) Any of the following grounds may also be the basis for discipline, censure, suspension, or revocation of certification as a certified shorthand reporter:

(i) conviction of crime involving moral turpitude;

(ii) dishonesty occurring in the performance of duties as a reporter or in matters related to shorthand reporting;

(iii) false or deceptive advertising;

(iv) gross incompetence in the performance of duties as a reporter;

(v) participation in any incentive programs,

(vi) violation of any statute governing court reporting; or

(vii) disregard or violation of a court order.

10.3 Discipline; Disciplinary Procedures.

(a) Discipline. Discipline may consist of the following:

(1) Written or oral reprimand;

(2) Censure

(3) Suspension of certification for a period not to exceed one (1) year; or

(4) Revocation of certification.

(b) Confidentiality. All certified shorthand reporter disciplinary proceedings shall remain confidential until the board recommends public reprimand, revocation, or suspension of certification of a court reporter unless: (i) the respondent reporter elects in writing to make the proceedings public, or (ii) the proceedings are disclosed by the respondent reporter's actions. Records filed with the Supreme Court and any oral argument held before the Court are not confidential.

(c) Disciplinary Procedure.

(1) Initial investigation and determination of cause to proceed. All written allegations of reporter misbehavior shall be referred to the board. Such written allegations may be submitted by any person. Any board member submitting an allegation shall not participate in the board's deliberations in deciding the merits of the complaint and/or penalties; however, such board member may participate in the hearing as the complaining witness. The board shall not consider oral or anonymous allegations. At all stages of the proceedings set out hereafter, the respondent reporter may be represented by counsel.

(2) Notice of allegations. The board shall send or deliver a copy of the allegations of misbehavior to the subject reporter and shall require the reporter to submit a written response within twenty (20) days after the copy is sent or delivered. The board may extend the time for a response at the reporter's request, but the extension shall not be for more than thirty (30) days.

(3) Intent not to pursue; notice. After reviewing the allegations and the Reporter's response thereto, if any, the board may determine the allegations do not assert grounds for discipline or that the claim is so trivial that

discipline would be unwarranted even if the allegations were true. In such case, the board shall notify the complainant and the respondent Reporter in writing that the matter will not be pursued further and the reasons therefor.

(4) **Formal complaint; notice and complaint to reporter; setting hearing date.** After reviewing the allegations and the reporter's response thereto, if any, the board may determine that the facts alleged would be grounds for discipline, if proved. In such case, the board shall notify the respondent reporter of such determination and set a hearing date, which date shall not be less than thirty (30) days and not more than sixty (60) days from the certified mailing or hand delivery of the formal complaint and notice unless the time is extended by written request of the respondent reporter.

(5) **Reporter's answer to complaint.** Within twenty (20) days after the complaint is mailed to the respondent reporter, the respondent reporter shall reply to the complaint by hand delivery or certified mailing of seven copies of an answer to the board. The answer shall specifically admit or deny the facts alleged in the complaint and shall assert all defenses the respondent reporter intends to assert. Failure to answer the complaint will be deemed an admission of any facts stated therein.

(6) **Disclosure of Evidence.** Within five (5) days after the reporter's answer is filed, the board shall submit to the respondent reporter: (i) copies of all documents to be presented as evidence against the respondent reporter, (ii) the names of all witnesses who will be called to testify before the board, and (iii) a list of all physical exhibits to be introduced in evidence before the board. Within five (5) days thereafter, the respondent reporter shall likewise submit to the board copies of all documents the respondent reporter will introduce into evidence, along with the names of all witnesses the respondent reporter will call to testify and a list of all physical exhibits to be introduced in evidence.

(d) Hearing.

(1) **Conduct of Hearing Proceedings; Evidence; Standard of Evidence.** The board shall conduct the hearing in confidential session unless the respondent reporter requests that the hearing be open to the public. The respondent reporter shall

be entitled to be present at all proceedings in which evidence is taken, but no session shall be postponed because the respondent reporter, having had notice the hearing would be conducted, fails to attend. The board may administer oaths or affirmations in matters before them. The board may compel by subpoena the attendance of witnesses and the production of evidence, including pertinent books, papers, documents, tape recordings, computer records or other digital media. The board members shall hear evidence from complainant and respondent reporter and witnesses, as necessary. The board may, by majority vote, decline to hear or consider any evidence not disclosed prior to the hearing as provided above. Violations of the Rules Governing Court Reporting in the State of Hawai'i shall be found only upon clear and convincing evidence, but the Hawai'i Rules of Evidence shall not apply and the board may consider all trustworthy evidence.

(2) **Board Findings, Conclusions and Recommendations.** Within thirty (30) days after the conclusion of the hearing on the complaint, the board shall, by majority vote, enter written findings of fact; conclusions as to which rules, if any, the respondent reporter violated; and recommendations for proposed discipline, if any. Notice of board findings, conclusions and recommendations shall be sent by certified mail to the respondent reporter, each board member and the Supreme Court Clerk.

(3) **Finality.** The board's findings and recommendations are final and shall not be subject to further review except by the Supreme Court.

(e) **Supreme Court Review and Decision.** The Supreme Court shall not entertain briefs or oral argument except: (i) within its discretion upon application of the respondent reporter submitted within ten (10) days after the written findings of fact are filed with the Supreme Court Clerk; or (ii) upon request of the Supreme Court. If an application to submit briefs or to entertain oral argument is granted, the Supreme Court shall set the dates for submission of briefs or oral argument, if any. As in all other matters before the Court, the Court may issue opinions or orders or may adopt and publish the written findings and recommendations contained in the board's notice thereof.

11. Rule 11 is amended as follows:

**Rule 11. [TEMPORARY CERTIFICATION.]
(RESERVED).**

[Temporary certification in the State of Hawai'i is hereby repealed. Reporters practicing under Rule 11 governing temporary certification have until November 1993 to obtain CSR/RPR status. Under separate resolution, speed building seminars and practice dictation tapes/audio will be available three months prior to all tests until November 1993.]

12. Rule 13 is amended as follows:

Rule 13. [EXAMINATION AND CERTIFICATION] FEES.

[(a) The board shall set such reasonable fees as it deems appropriate for the administration of its duties.

(b) Prior to the taking of any examination administered by the board, the applicant shall pay the appropriate examination fee fixed by the board.

(c) Every Hawai'i certified shorthand reporter shall pay an annual certification fee in an amount to be fixed by the board.

(d) All examination and certification fees shall be paid within the times fixed by the board, and shall be made payable to the Hawai'i Board of Certified Shorthand Reporters and shall be paid at the Administrative Office of the Courts, Supreme Court Building (Ali'iōlani Hale).]

(a) The fee for application for certification and administering the written knowledge test is \$125.

(b) The fee for machine skills testing is determined by National Court Reporters' Association and payable to that entity. The board administers the test for National Court Reporters' Association in May and November of each year.

(c) Annual renewal fees are \$50.

(d) Payment of each reporter's annual renewal fee shall be received by the board not later than January 31 of each calendar year.

(e) The certification of any reporter whose annual renewal fee shall not have been received by January 31 shall forthwith be suspended without prior notice. The board shall give written notice to any reporter so suspended.

(f) Any certification that shall have been suspended for failure of timely payment of fees may be reinstated in and for the same calendar year as the year of suspension by payment of those fees plus a late fee of 100 percent of those fees. The board shall require the reporter to submit a letter of explanation.

(g) Any suspension of certification under this rule that continues through December 31 of the calendar year of such suspension shall result in revocation of certification. The board shall give written notice to any reporter whose certificate is so revoked.

13. Rule 14 heading is amended as follows:

Rule 14. [PROHIBITED CONTRACTS.] DISCLOSURE.

14. Rule 15 is amended as follows:

Rule 15. [PENALTIES FOR VIOLATION OF RULES; OTHER GROUNDS FOR DISCIPLINE, CENSURE, SUSPENSION OR REVOCATION OF CERTIFICATION.] REINSTATEMENT.

[(a) Any violation of these rules, or any violation of rules and regulations promulgated by the board, shall be cause for refusal of the board to issue certification to any applicant. Any willful violation of these rules, or of any rules or regulations promulgated by the board, shall be grounds for the discipline, censure, suspension or revocation of certification as a Hawai'i certified shorthand reporter.

(b) Other grounds for discipline, censure, suspension or revocation of certification. Any of the following grounds may also be the basis for discipline, censure, suspension or revocation of certification as a shorthand reporter:

- (1) conviction of crime involving moral turpitude;
- (2) dishonesty occurring in the performance of duties as a certified shorthand reporter or in matters reasonably related to shorthand reporting;
- (3) false or deceptive advertising;
- (4) gross incompetence in the performance of duties as a certified shorthand reporter; and
- (5) participation in any incentive programs.]

(a) Application; restrictions. Any reporter whose certification has been suspended, other than for late payment of dues, or revoked may seek reinstatement by reapplying for certification

under Rule 9.1, provided, however, that (i) no application for reinstatement shall be considered until the expiration of the times set out in parts (b) and (c) below, and (ii) no reporter who has been suspended or whose certification has been revoked in a foreign jurisdiction and who has not been reinstated there may apply for reinstatement in Hawai'i.

(b) Time. A reporter whose certification was revoked for failure to meet continuing education requirements may be reinstated upon meeting the requirements. A Reporter whose certificate has been revoked for other disciplinary reasons may not seek reinstatement until the expiration of at least two (2) years after the date the Reporter's certificate was revoked.

(c) Standard of proof. A reporter seeking reinstatement of certification for other than nonpayment of fees or failure to meet CEU requirements must demonstrate, by clear and convincing evidence, rehabilitation; fitness to practice; compliance with all applicable rules and disciplinary orders; and compliance with any other rules or requirements imposed by the supreme court, and shall include payment of a new application fee and demonstration of machine skill proficiency pursuant to Rule 9.1(b)(3) of these Rules.

15. Rule 16 is amended as follows:

Rule 16. BACKGROUND INFORMATION ON NEW APPLICANTS.

To [insure] determine the applicant is of good moral character, every applicant must set forth the applicant's name, last place of residence, the term of the applicant's schooling, the name of each reporting institution the applicant attended [and] or graduated from, and with what degree. The applicant shall set forth the names of all licensing authorities [which] that the applicant has [made application to practice,] received certification from and the dates the applicant [has been] was admitted to practice as a certified shorthand reporter, registered professional reporter, or other recognized certification. The applicant shall also set forth any and all court and freelance firms with whom the applicant has been associated and the dates of association. The application shall

set forth whether the applicant has been the subject of any investigation or proceeding for professional misconduct or whether the applicant has ever been rejected upon application to practice reporting before any court or other reporting entity. [A filing fee of \$25, or in such amount as prescribed by the court, shall accompany each application.] The cost of a character report or investigation, if required, shall be borne by the applicant.

16. Rule 18 is amended as follows:

Rule 18. NONLICENSED ACTIVITY.

[Any entity offering court reporter services must be a licensee of the board or designate a managing licensee to be accountable to the board for the entity's actions. The board shall be authorized to take legal action to prevent individuals from engaging in the unauthorized practice of shorthand reporting.]

Any entity offering court reporting services intended to be filed in any judicial proceeding in the State of Hawai'i must be (i) a duly certified Hawai'i certified shorthand reporter or (ii) must designate a Hawai'i certified shorthand reporter who is a resident of the State of Hawai'i as "Managing CSR" to be accountable to the board for the entity's actions.

17. Rule 19(a) is amended as follows:

Rule 19. OFFICIAL TRANSCRIPT RATES.

(a) Government Rates. An official court reporter may charge the following per page rates for the court reporter's service in preparing transcripts for which the State of Hawai'i or a political subdivision of the State of Hawai'i or the United States bears the responsibility of payment: . . .

18. Rule 20 is added as follows:

Rule 20. ADVISORY OPINIONS.

The board may respond to requests for advisory opinions in such manner as it may deem appropriate. No advisory opinion shall be binding upon the board. Any advisory opinion may be given such circulation as the board may deem appropriate, but the identity of the person or

organization requesting such advisory opinion
shall be kept confidential.

19. Exhibit A and Exhibit B are deleted.
20. Forms 1, 2, 3 and 4 are amended as attached hereto.

DATED: Honolulu, Hawai'i, April 25, 2003.